§ 2533.1

An Indian who desires to apply for an allotment within a national forest under this act must submit the application to the supervisor of the particular forest affected, by whom it will be forwarded with appropriate report, through the district forester and Chief, Forest Service, to the Secretary of Agriculture, in order that he may determine whether the land applied for is more valuable for agriculture or grazing than for the timber found thereon.

§ 2533.2

(a) Should the Secretary of Agriculture decide that the land applied for, or any part of it, is chiefly valuable for the timber found thereon, he will transmit the application to the Secretary of the Interior and inform him of his decision in the matter. The Secretary of the Interior will cause the applicant to be informed of the action of the Secretary of Agriculture.

(b) In case the land is found to be chiefly valuable for agriculture or grazing, the Secretary of Agriculture will note that fact on the application and forward it to the Commissioner of Indian Affairs.

(c) If the Commissioner of Indian Affairs approves the application, he will transmit it to the Bureau of Land Management for issuance of a trust patent.

§ 2540.0-3

Bureau of Land Management, Interior

exceed 160 acres of public lands held under claim or color of title of either of the two classes described in §2540.0-5(b) upon payment of the sale price of the land.

(b) Act of February 23, 1932. The Act of February 23, 1932 (47 Stat. 53; 43 U.S.C. 178), authorizes the Secretary of the Interior in his discretion to issue patents, upon the payment of $1.25 per acre, for not more than 160 acres of public land, where such land is contiguous to a Spanish or Mexican land grant, and where such land has been held in good faith and in peaceful, adverse possession by a citizen of the United States, his ancestors or grantors, for more than 20 years under claim or color of title and where valuable improvements have been placed on such land, or some part thereof has been reduced to cultivation. The act further provides that where the land is in excess of 160 acres, the Secretary may determine the 160 acres to be patented under the Act. Under the said act the coal and all other minerals in the land are reserved to the United States and shall be subject to sale or disposal under applicable leasing and mineral land laws of the United States.

(c) Act of September 21, 1922. The Act of September 21, 1922 (42 Stat. 992; 43 U.S.C. 992), authorizes the Secretary of the Interior in his judgment and discretion to sell at an appraised price, any of those public lands situated in Arkansas, which were originally erroneously meandered and shown upon the official plats as water-covered areas, and which are not lawfully appropriated by a qualified settler or entryman claiming under the public land laws, to any citizen who in good faith under color of title or claiming as a riparian owner, has prior to September 21, 1922, placed valuable improvements upon or reduced to cultivation any of such lands. The coal, oil, gas, and other minerals in such lands are reserved to the United States.

(d) Act of February 19, 1925. The Act of February 19, 1925 (43 Stat. 951; 43 U.S.C. 993), authorizes the Secretary of the Interior in his judgment and discretion to sell at an appraised price, any of those public lands situated in Louisiana, which were originally erroneously meandered and shown upon the official plats as water-covered areas and which are not lawfully appropriated by a qualified settler or entryman claiming under the public land laws, to any citizen who or whose ancestors in title in good faith under color of title or claiming as a riparian owner, has prior to February 19, 1925, placed valuable improvements upon or reduced to cultivation any of such lands. The coal, oil, gas, and other minerals in such lands are reserved to the United States.

(e) Act of August 24, 1954. The Act of August 24, 1954 (68 Stat. 789), directs the Secretary of the Interior to issue patents for public lands which lie between the meander line of an inland lake or river in Wisconsin as originally surveyed and the meander line of that lake or river as subsequently resurveyed, under certain terms and conditions. The Act of February 27, 1925 (43 Stat. 1013 43 U.S.C. 994), authorized the Secretary of the Interior to sell such public lands under certain other terms and conditions. These Acts are cited as the Act of 1954 and the Act of 1925, respectively, in §§2545.1 to 2545.4.

(f) Act of May 31, 1962. (1) The Act of May 31, 1962 (76 Stat. 88), hereafter referred to as the Act, authorizes the Secretary of the Interior, in his discretion, to sell at not less than their fair market value any of those lands in the State of Idaho, in the vicinity of the Snake River or any of its tributaries, which have been, or may be, found upon survey to be omitted public lands of the United States, and which are not within the boundaries of a national forest or other Federal reservation and are not lawfully appropriated by a qualified settler or entryman claiming under the public land laws, or are not used and occupied by Indians claiming by reason of aboriginal rights or are not used and occupied by Indians who are eligible for an allotment under the laws pertaining to allotments on the public domain.

(2) The Act provides that in all patents issued under the Act, the Secretary of the Interior (i) shall include a reservation to the United States of all the coal, oil, gas, oil shale, phosphate, potash, sodium, native asphalt, solid and semisolid bitumen, and bitumen rock (including oil-impregnated rock or sands from which oil is recoverable
only by special treatment after the deposit is mined or quarried), together with the right to prospect for, mine, and remove the same; and (ii) may reserve the right of access to the public through the lands and such other reservations as he may deem appropriate and consonant with the public interest in preserving public recreational values in the lands.

(3) The Act further provides that the Secretary of the Interior shall determine the fair market value of the lands by appraisal, taking into consideration any reservations specified pursuant to paragraph (f)(2) of this section and excluding, when sales are made to preference-right claimants under section 2 of the Act, any increased values resulting from the development or improvement thereof for agricultural or other purposes by the claimant or his predecessors in interest.

(4) The Act grants a preference right to purchase lands which are offered by the Secretary of the Interior for sale under the Act to any citizen of the United States (which term includes corporations, partnerships, firms, and other legal entities having authority to hold title to lands in the State of Idaho) who, in good faith under color of title or claiming as a riparian owner has, prior to March 30, 1961, placed valuable improvements upon, reduced to cultivation or occupied any of the lands so offered for sale, or whose ancestors or predecessors in title have taken such action.


(1) Section 211 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1721), authorizes the Secretary of the Interior in his discretion to sell at not less than fair market value to the occupant thereof any omitted lands which, after survey, are found to have been occupied and developed for a 5-year period prior to January 1, 1975.

(2) The Act provides that all such conveyances under the Act must be in the public interest and will serve objectives which outweigh all public objectives and values served by retaining such lands in Federal ownership.

(3) Section 208 of the Act (43 U.S.C. 1718) further provides that the Secretary of the Interior shall issue patents subject to such terms, covenants, conditions, and reservations as deemed necessary to insure proper land use and protection of the public interest.

(4) Section 209 of the Act (43 U.S.C. 1719) provides that all patents issued under the Act shall reserve to the United States all minerals in the lands, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe, except as provided by section 209(b) of the Act.


§ 2540.0–5 Definition.


(b) The claims recognized by the Act will be referred to in this part as claims of class 1, and claim of class 2. A claim of class 1 is one which has been held in good faith and in peaceful adverse possession by a claimant, his ancestors or grantors, under claim or color of title for more than 20 years, on which valuable improvements have been placed, or on which some part of the land has been reduced to cultivation. A claim of class 2 is one which has been held in good faith and in peaceful, adverse possession by a claimant, his ancestors or grantors, under claim or color of title for the period commencing not later than January 1, 1901, to the date of application, during which time they have paid taxes levied on the land by State and local governmental units. A claim is not held in good faith where held with knowledge that the land is owned by the United States. A claim is not held in peaceful, adverse possession where it was initiated while the land was withdrawn or reserved for Federal purposes.

[35 FR 9592, June 13, 1970]

Subpart 2541—Color-of-Title Act

SOURCE: 35 FR 9592, June 13, 1970, unless otherwise noted.